

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

DAVID H. JACOBS and
PEGGY K. JACOBS,

Plaintiffs,

v.

UNITED STATES OF AMERICA,

Defendant.

Civil Action No. 3:25-cv-1944-JDA

COMPLAINT

(Jury Trial Demanded)

The Plaintiffs, David H. Jacobs and Peggy K. Jacobs, bring this action and allege as follows:

1. Plaintiffs David H. Jacobs and Peggy K. Jacobs are United States citizens and husband and wife residing in Columbia, South Carolina. The last four digits of their social security numbers are 4884 and 2315, respectively.
2. Defendant is the United States of America.
3. This is an action for the recovery of federal income taxes and interest erroneously or illegally assessed and collected by the Internal Revenue Service (the “IRS”).
4. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1346(a)(1).
5. Recovery is sought of federal income taxes plus interest for the taxable year ended December 31, 2016.
6. On October 13, 2021, Plaintiffs timely filed their 2020 income tax returns (Form 1040), electing “married filing separate” status, with the Internal Revenue Service Center at Kansas City, Missouri.

7. On December 19, 2023, Plaintiffs filed an amended joint income tax return (Form 1040-X) for tax year 2020 (the “2020 Amended Return”) with the Internal Revenue Service Center at Kansas City, Missouri. The 2020 Amended Return was filed via certified mail and was received by the IRS on December 27, 2023.

8. On the 2020 Amended Return, Plaintiffs reported a net operating loss for tax year 2020 in the amount of \$1,008,271 (the “2020 NOL”).

9. Plaintiffs elected to carry back the 2020 NOL to the five preceding taxable years, as allowed under 26 U.S.C. § 172(b)(1)(D) (added by Section 2303(b) of the Coronavirus Aid, Relief and Economic Security Act (CARES Act), Public Law 116-136, 134 Stat. 281 (March 27, 2020)).

10. In accordance with carryback rules under 26 U.S.C. § 172(b)(2), Plaintiffs first applied the entire 2020 NOL to tax year 2015 (the earliest of the taxable years to which the 2020 NOL could be carried back) and then applied any excess/unused portion of the 2020 NOL to the next earliest tax years until the 2020 NOL was fully absorbed.

11. As it relates to the refund claim for overpaid taxes by Plaintiffs for the 2016 tax year, Plaintiffs aver that they timely filed their original joint income tax return (Form 1040) for tax year 2016 (the “2016 Original Return”) with the Internal Revenue Service Center in Kansas City, Missouri. The 2016 Original Return reported taxable income of \$1,203,860 and a total tax of \$378,100, which income tax was timely paid.

12. On December 27, 2023, and based on the applicable carryback rules, Plaintiffs filed an amended joint income tax return (Form 1040-X) for tax year 2016 (the “2016 Amended Return”) with the Internal Revenue Service Center in Kansas City, Missouri, for the purpose of applying the 2020 NOL. The 2016 Amended Return was filed via certified mail and was received by the IRS on January 4, 2024.

13. As reported on the 2016 Amended Return, the Plaintiffs were able to apply the entire 2020 NOL to the 2016 tax year, resulting in corrected taxable income of \$138,016 and corrected total tax of \$20,611. Thus, Plaintiffs have an overpayment of income tax in the amount of \$357,489 for tax year 2016. The 2016 Amended Return supports a refund of \$357,489 for the overpayment.

14. As of the date hereof, Plaintiffs have not received any written correspondence from the IRS regarding the 2016 Amended Return or the refund claim contained therein.

15. More than six months have passed since the filing of the 2016 Amended Return, and the IRS has failed to act on the refund claim. Under 26 U.S.C. §§ 6532(a)(1) and 7422, the inaction by the IRS allows the Plaintiffs to commence this action.

16. Plaintiffs overpaid their federal income tax for tax year 2016 in the amount of \$357,489, plus interest, and are entitled to a refund of such overpayment plus interest as provided by law.

WHEREFORE, Plaintiffs demand judgment in their favor and against the United States:

(1) in the amount of \$357,489, plus interest as provided by law; and

(2) such other relief as the Court may deem just, including an award of reasonable litigation costs incurred in this proceeding under 26 U.S.C. § 7430.

Respectfully submitted,

s/ Aaron M. Scheuer

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